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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,106	12/16/2005	Franz Knauseder	1469-053129	1988
28289 7590 04/30/2007 THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			EXAMINER FIGUEROA, ADRIANA	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 04/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/561,106

Applicant(s)

KNAUSEDER, FRANZ

Examiner

Adriana Figueroa

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 26-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show how a third board is connected to the first board as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "61" has been used to designate both "flat bottom surface" in page 17, line 32 and as "lateral tongue" in page 20, line 34.

Reference character 51 has been used to designate both "flat surface" in page 16, line 27 and as "lateral groove" in page 20, line 35.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

4. The disclosure is objected to because of the following informalities:

In page 17, line 18 the word "respective" is misspelled.

In page 17, line 28 the phrase "as locking element" is incorrect.

Appropriate correction is required.

***Claim Objections***

5. Claims 35 and 41 are objected to because of the following informalities:
- Claim 35 in line 3 the phrase "in particular has such a course" is incorrect.
- Claim 41 in line 2 the phrase "of the groove of the perpendicular groove" is incorrect.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 40-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 40 recites the limitations "the lateral tongue" and "the vertical locking element" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 41 recites the limitations "the lateral groove" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 42 it is unclear how the boards can be connected in an adhesive-free manner by means of an adhesive. This claim is contradictory.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 26- 35, 37-39, 44-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Thiers (WO 2004/048716 A1).

Regarding claim 26, Thiers discloses a structure comprising of at least first, second and third identical boards (2) having laterally mounted locking elements (7-8, 9-10), wherein the locking elements are made in such a way that, simultaneously, by displacing the first board (2) relative to the second board (2) along a first common joint (f), the first board can be connected with the second board in a positive fit along the first common connecting joint, both in a perpendicular direction (D1) relative to the surface (B) of the board, as well as in a parallel direction (D2) relative to the surface of the board, and, at the same time, in a perpendicular direction relative to the first common joint (f), (annotated Figures 1, 2, 4) and the first board (2) can be connected with the third board (2) in a positive fit along a second common connecting joint (s), at least in a perpendicular direction relative to the surface (B) of the board, (annotated Figures 1, 2, 8, 9).

Regarding claim 27, Thiers discloses all or some of the locking elements (7-8, 9-10) are made in such a way that the displacement can take place exclusively in one plane that is parallel relative to the surface (B) of the boards (2), (Figures 4, 8, 9).

Regarding claim 28, Thiers discloses the first common connecting joint (f) runs in a perpendicular direction relative to the second common connecting joint (s), (annotated Figures 1, 2).

Regarding claim 29, Thiers discloses the boards (2) having laterally mounted locking elements (7-8, 9-10) with which two boards can be connected with each other laterally in an adhesive-free manner by positive fit, wherein the locking elements are made in such a manner, that there is an initial position into which the boards can exclusively be brought by lowering in a vertical direction, wherein a common joint (f, s) is formed between the boards in which a play occurs, and there is a final position in which the boards are interlocked by positive fit in a vertical direction and in which no play occurs at the common joint and wherein the panels may be connected with each other in an adhesive-free manner, (annotated Figures 4, 10).

Regarding claim 30, Thiers discloses the boards (2) may be brought from the initial position into the final position by displacement along the common joint (f, s), (annotated Figures 4, 10).

Regarding claim 31, Thiers discloses the locking elements (7-8, 9-10) are such that the boards (2) can be brought into the initial position when, along the common connecting joint (f, s), they are arranged offset relative to one another by more than 50% and less than 100%, (annotated Figures 4, 10, 15).

Regarding claim 32, Thiers discloses that there is an intermediate position in which the boards (2), at least in vertical direction, are interlocked by positive fit and in

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which a play occurs at the common joint of the two boards (f, s), (annotated Figures 4, 10).

Regarding claim 33, Thiers discloses a board (2), wherein a locking element (10), has a perpendicular groove (20) that is inserted in a perpendicular direction relative to the surface (B), and the other board has at least a corresponding protruding perpendicular locking element (19) which arrives in the perpendicular groove when the boards are in the initial position, wherein the perpendicular groove (20) and/or a lateral boundary (25) of the perpendicular groove, at least in part, have a course that does not run parallel relative to the common joint (s), and/or the perpendicular locking element (19) and/or a lateral boundary (24) of the perpendicular locking element at least in part have such a course that does not run parallel relative to the common joint, (annotated Figures 8, 9).

Regarding claim 34, Thiers discloses boards (2) wherein, in the final position, a lateral boundary (25) of the perpendicular grooves (20) adjoins a lateral boundary (24) of the perpendicular locking element (19) intimately, (Figures 8, 9, 10).

Regarding claim 35, Thiers discloses boards (2) wherein at least one lateral boundary (25) of the perpendicular groove (20) and/or a lateral boundary (24) of the perpendicular locking element (19) is formed wedge-shaped, in particular has such a course relative to the common joint (s) that the distance to the common joint decreases or increases along the joint in a linear manner, (annotated Figures 8, 9).



Regarding claim 37, Thiers discloses that there is at least one contact area (c) between two locking elements (9, 10) which area runs in a perpendicular direction relative to the surface (B), (annotated Figure 10).

Regarding claim 38, Thiers discloses that there is at least one contact area (u) between two locking elements (9, 10) formed by undercuts, (annotated Figure 10).

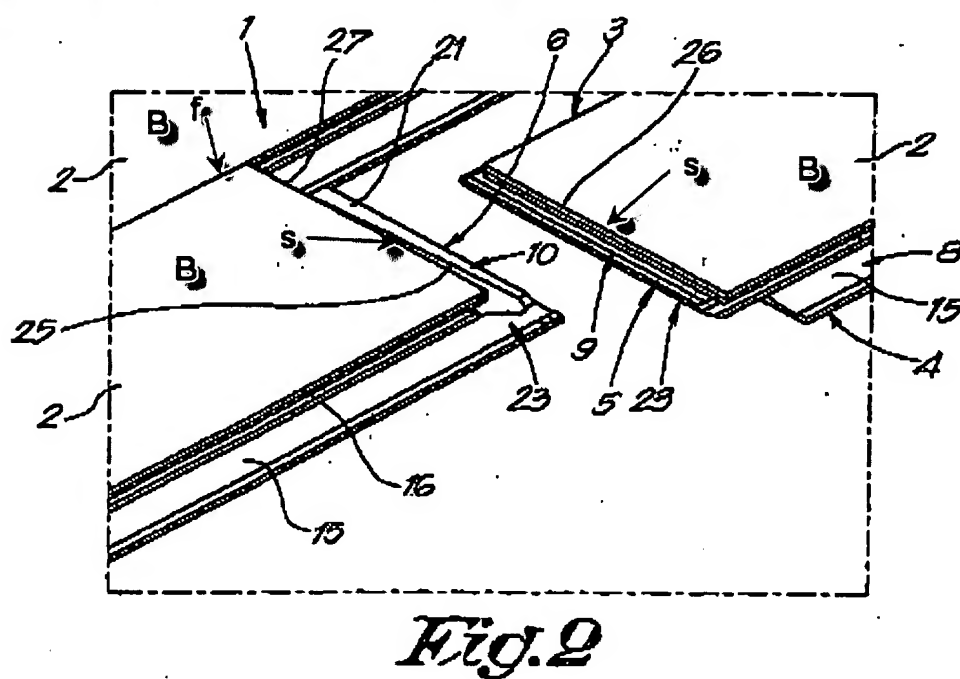
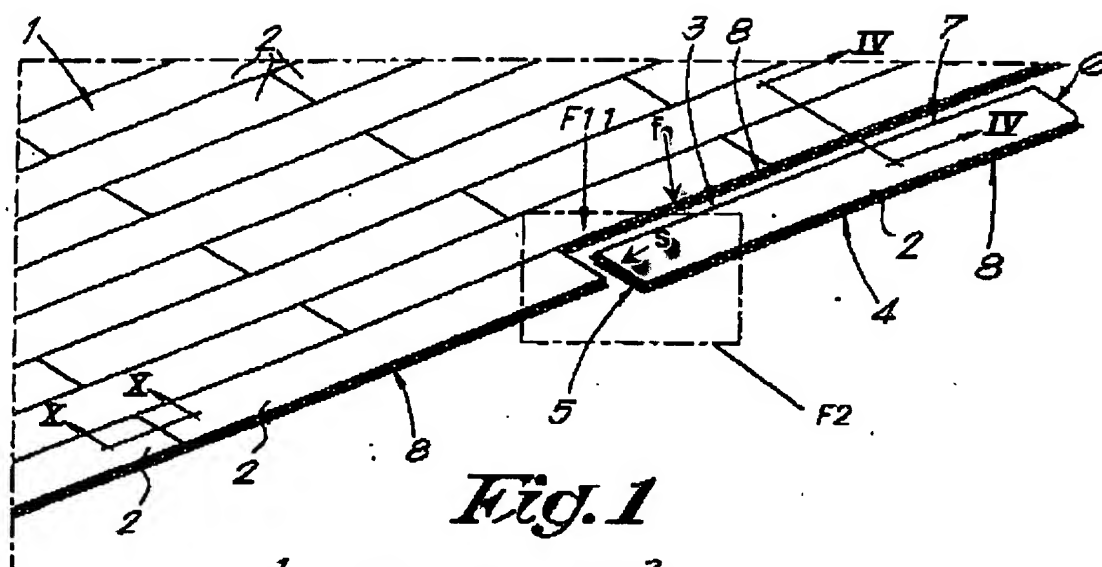
Regarding claim 39, Thiers discloses one board (2) laterally having, as a locking element, at least one groove (18) and another board (2) laterally has at least one tongue (17), (annotated Figure 10).

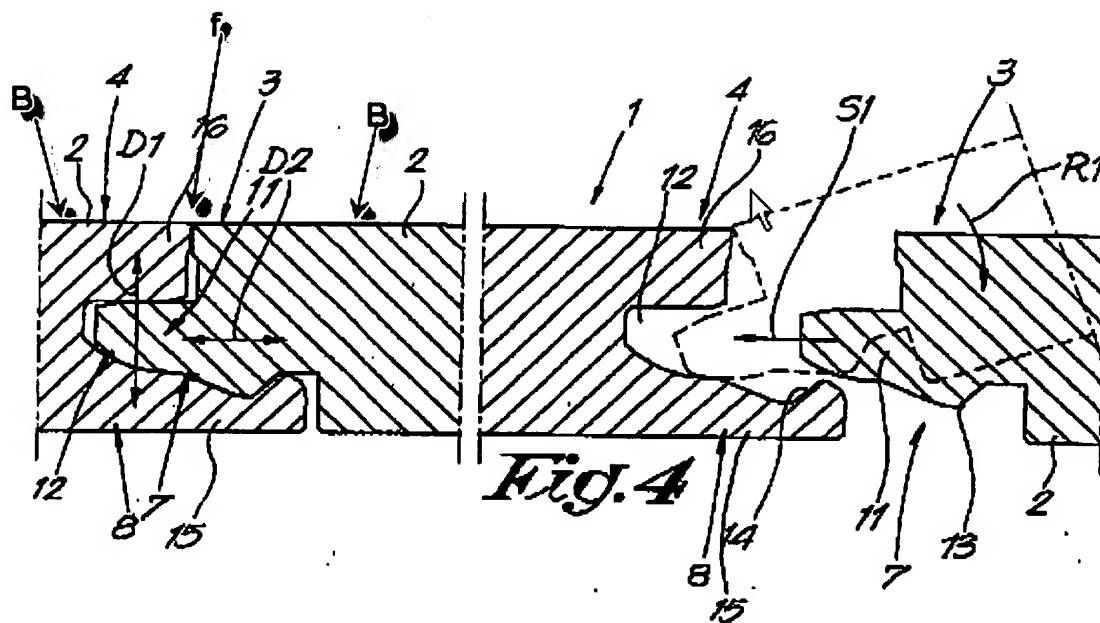
Regarding claim 44, Thiers discloses the boards being laminate panels, (Page 1, Line 5).

Regarding claim 45, Thiers discloses boards (2), which are part of a floor covering, (Figure 1).

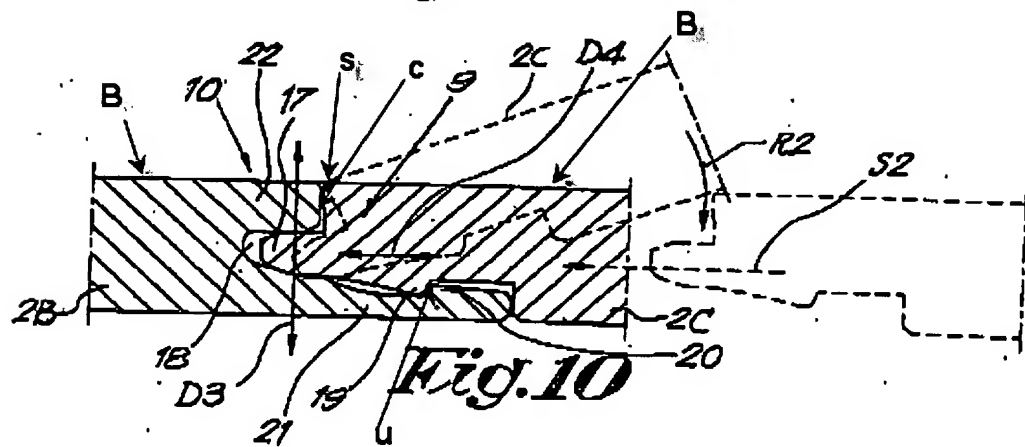
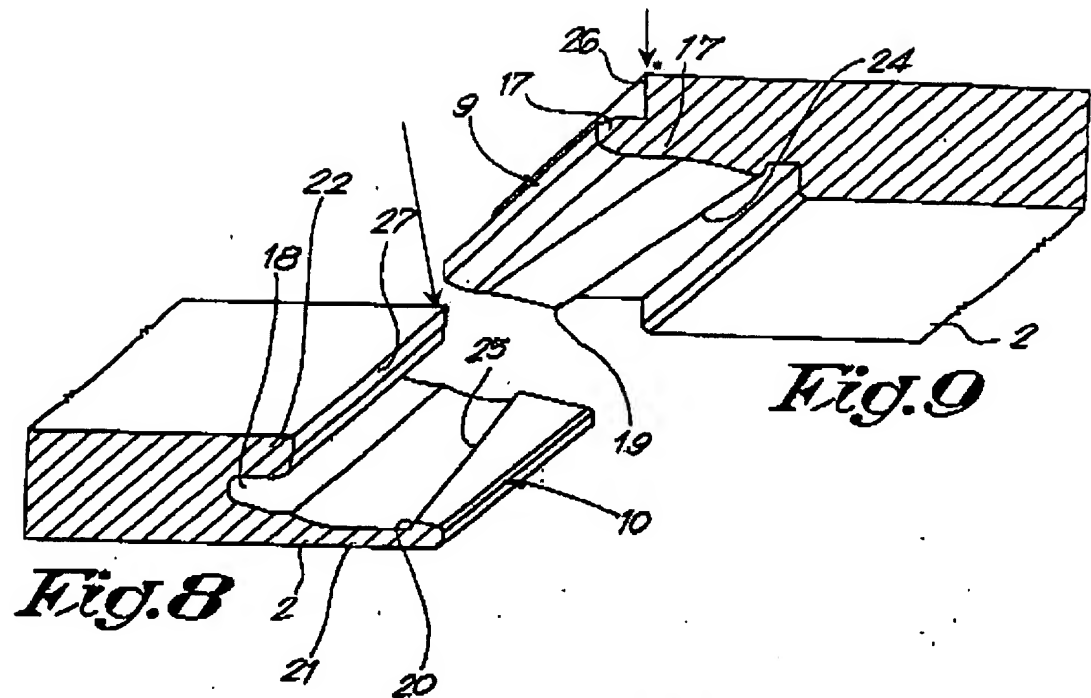
Regarding claims 46-50, the claimed method steps would have been obvious method of assembling the boards of Thiers.

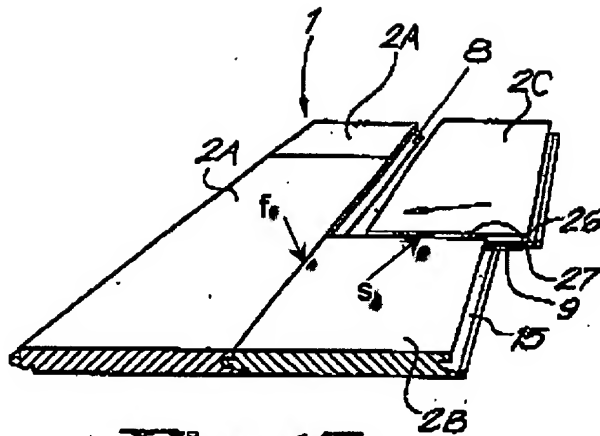
Regarding claim 51, Thiers discloses the locking elements (7-8, 9-10) are such that the boards (2) can be brought into the initial position when, along the common connecting joint (f, s), they are arranged offset relative to one another by more than 66% and less than 80%, (annotated Figures 4, 10, 15).





Thiers (WO 2004/048716 A1)





*Fig. 15*

Thiers (WO 2004/048716 A1)

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 36 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers (WO 2004/048716 A1) in view of Konzelmann (US 2004/0168392). Thiers discloses as discussed in claim 35, but does not disclose at least one lateral wall of a groove that is provided as a locking element runs in an arched, wave-like, serpentine or sawtooth-like manner. However, Konzelmann teaches lateral wall (10) of a groove (7) that is provided as a locking element runs in a serpentine manner, (Figure 1), (Paragraph 62). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the lateral wall of a groove

as taught by Konzelmann in order to facilitate movement of one board towards the other. Konzelmann does not show an arched, wave-like, or sawtooth-like manner. However, Konzelman serpentine manner is considered to be an obvious variation of an arched, wave-like, or sawtooth-like manner.

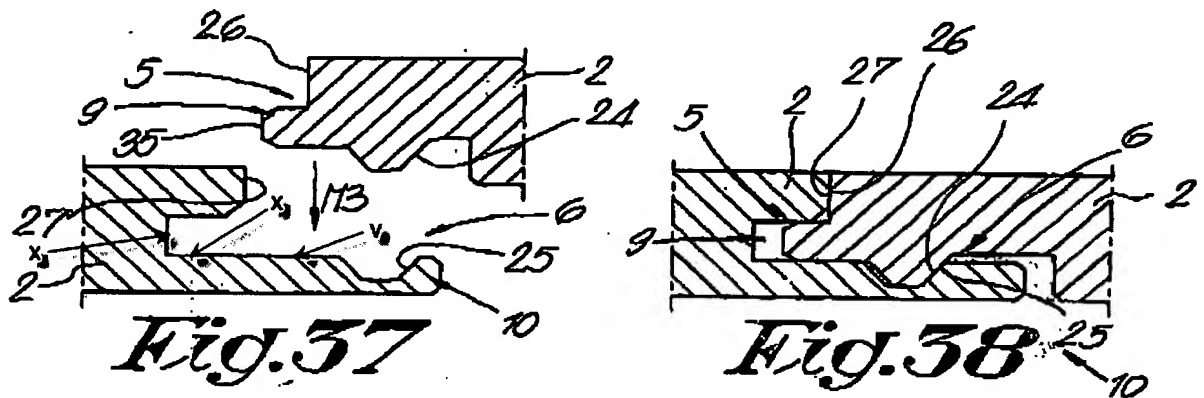
Regarding claim 43, Thiers discloses as discussed in claim 35, but does not disclose the boards having a moisture repellant paste or adhesive mass between two boards which adjoins the surface of the boards. However, Konzelmann teaches the boards having an adhesive mass between two boards, which adjoins the surface of the boards, (Paragraph 72). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify boards of Thiers to include an adhesive as taught by Konzelmann in order to avoid an unintended slipping back from the final position in the direction of the initial position.

Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers (WO 2004/048716 A1), (Figure 10) in view of Thiers (WO 2004/048716 A1), (Figures 37, 38).

Regarding claim 40, Thiers (Figure 10) discloses as discussed in claim 35, but does not disclose the bottom surface of the lateral tongue forms a flat surface with the bottom side of the vertical locking element. However, Thiers (Figures 37, 38) teaches the bottom surface of the lateral tongue (35) forms a flat surface with the bottom side (v) of the vertical locking element. Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify boards

of Thiers (Figure 10) to have a flat surface as taught by Thiers (Figures 37, 38) in order to provide a smoother coupling between the boards.

Regarding claim 41, Thiers (Figure 10) discloses as discussed in claim 35, but does not disclose the bottom groove-cheek of the lateral groove forms a flat surface with the bottom of the perpendicular groove. However, Thiers (Figures 37, 38) teaches the bottom groove-cheek (w) of the lateral groove (x) forms a flat surface with the bottom (v) of the perpendicular groove. Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify boards of Thiers (Figure 10) to have a flat surface as taught by Thiers (Figures 37, 38) in order to provide a smoother coupling between the boards.



Thiers (WO 2004/048716 A1)

### **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Martensson (US 6,647,690) teaches boards intended to be joined vertically;  
Weitzer (US 2005/0204676) teaches a panel having groove and tongue.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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